

**BEFORE THE  
BOARD OF PSYCHOLOGY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT E. LEE, PhD.  
4138 Atascadero Dr.  
San Diego, CA 92107  
Psychologist's License No. PSY 4028

Respondent.

Case No. W265

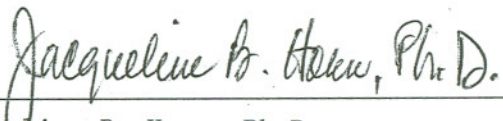
OAH No. L-2004090255

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Psychology as its Decision in this matter.

This Decision shall become effective on September 8, 2005.

It is so ORDERED August 9, 2005.

  
\_\_\_\_\_  
Jacqueline B. Horn, Ph.D.  
President, Board of Psychology  
Department of Consumer Affairs

3. On or about 12/14/1973, the Board of Psychology issued Psychology License No. PSY 4028 to Robert E. Lee, which will expire on November 30, 2005, if not renewed.

## JURISDICTION

4. Accusation No. W265 was filed before the Board of Psychology and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 20, 2003. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. W265 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. w265 Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. W265 .

9. Respondent agrees that his Psychology License is subject to discipline and he is bound by the imposition of discipline as set forth in the Disciplinary Order below.



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11. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Psychology License No. PSY 4028 issued to Respondent Robert E. Lee is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

2. COURSE WORK Respondent shall take and successfully complete not less than 12 hours each year of probation in the following area(s) Ethics, Confidentiality and/or General Practice courses. Course work must be pre-approved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study course work shall not count toward meeting this requirement. The course work must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements. All costs of the course work shall be paid by the respondent.

1                   3.     ETHICS COURSE Within 90 days of the effective date of this Decision,  
2 respondent shall submit to the Board or its designee for prior approval a course in laws and ethics  
3 as they relate to the practice of psychology. Said course must be successfully completed at an  
4 accredited educational institution or through a provider approved by the Board's accreditation  
5 agency for continuing education credit. Said course must be taken and completed within one  
6 year from the effective date of this Decision. The cost associated with the law and ethics course  
7 shall be paid by the respondent.

8                   4.     INVESTIGATION/ENFORCEMENT COST RECOVERY Respondent  
9 shall pay the Board its costs of investigation and enforcement in the amount of \$3,500. Payment  
10 for costs of investigation and enforcement in the amount of \$3500, shall be completed within the  
11 first year of probation. Such costs shall be payable to the Board of Psychology and are to be paid  
12 regardless of whether the probation is tolled. Failure to pay such costs shall be considered a  
13 violation of probation.

14                   The filing of bankruptcy by respondent shall not relieve respondent of the  
15 responsibility to repay investigation and enforcement costs.

16                   5.     PROBATION COSTS Respondent shall pay the costs associated with  
17 probation monitoring each and every year of probation. Such costs shall be payable to the Board  
18 of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be  
19 considered a violation of probation.

20                   The filing of bankruptcy by respondent shall not relieve respondent of the  
21 responsibility to repay probation monitoring costs.

22                   6.     OBEY ALL LAWS Respondent shall obey all federal, state, and local  
23 laws and all regulations governing the practice of psychology in California including the ethical  
24 guidelines of the American Psychological Association. A full and detailed account of any and all  
25 violations of law shall be reported by the respondent to the Board or its designee in writing  
26 within seventy-two (72) hours of occurrence.

27                   7.     QUARTERLY REPORTS Respondent shall submit quarterly  
28 declarations under penalty of perjury on forms provided by the Board or its designee, stating



1 whether there has been compliance with all the conditions of probation. Quarterly reports  
2 attesting to non-practice status are to be submitted if probation is tolled.

3 8. PROBATION COMPLIANCE Respondent shall comply with the Board's  
4 probation program and shall, upon reasonable notice, report to the Board of Psychology  
5 probation monitor. Respondent shall contact the assigned probation monitor regarding any  
6 questions specific to the probation order. Respondent shall not have any unsolicited or  
7 unapproved contact with 1) complainants associated with the case; 2) Board members or  
8 members of its staff; or 3) persons serving the Board as expert evaluators.

9 9. INTERVIEW WITH BOARD OR ITS DESIGNEE Respondent shall  
10 appear in person for interviews with the Board or its designee upon request at various intervals  
11 and with reasonable notice.

12 10. CHANGES OF EMPLOYMENT Respondent shall notify the Board in  
13 writing, through the assigned probation monitor, of any and all changes of employment, location,  
14 and address within 30 days of such change.

15 11. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-  
16 STATE NON-PRACTICE In the event respondent should leave California to reside or to  
17 practice outside the State, or for any reason should respondent stop practicing psychology in  
18 California, respondent shall notify the Board or its designee in writing within ten days of the  
19 dates of departure and return or the dates of non-practice within California. Non-practice is  
20 defined as any period of time exceeding thirty days in which respondent is not engaging in any  
21 activities defined in Sections 2902 and 2903 of the Business and Professions Code. During  
22 periods of non-practice, the probationary period is tolled and respondent's license or registration  
23 shall be placed on inactive status. The probationary period will not commence again until  
24 respondent activates his or her license and resumes practicing psychology in the state of  
25 California. However, the Board may require respondent to complete certain terms of probation  
26 that are not associated with active practice and respondent will be required to pay cost recovery  
27 and restitution as ordered.

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12. EMPLOYMENT AND SUPERVISION OF TRAINEES If respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisorial relationship in existence on the effective date of this probation shall be terminated by respondent and/or the Board.

13. **VIOLATION OF PROBATION** If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

14. COMPLETION OF PROBATION Upon successful completion of probation, respondent's license shall be fully restored.

15. REINSTATEMENT AND INVESTIGATION/ENFORCEMENT COST RECOVERY Respondent may not petition for reinstatement of a revoked or surrendered license/registration for three years from the effective date of this Decision. Respondent agrees he may not be reinstated until all past due payments as stated herein are fully paid. Respondent further agrees to reimburse the Board for it's reasonable costs of investigation and report preparation. Such payment shall be due upon the effective date of such reinstatement Decision.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, IMHOFF & ASSOC.,P.C. and Donna L. Ortlieb. I understand the stipulation and the effect it will have on my Psychology License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree

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1 to be bound by the Decision and Order of the California Board of Psychology.

2 DATED: March 9, 2005

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4   
5 ROBERT E. LEE, PhD  
6 Respondent

7 I have read and fully discussed with Respondent Robert E. Lee, PhD. the terms  
8 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
9 Order. I approve its form and content.

10 DATED: 3-11-05

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12   
13 IMHOFF & ASSOC., P.C. by  
14 DONNA L. ORTLIEB

15 Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the California Board of Psychology.

19 DATED: 4-29-05

20 BILL LOCKYER, Attorney General  
21 of the State of California

22   
23 T. DOUGLAS MACCARTEE  
24 Deputy Attorney General

25 Attorneys for Complainant

**Exhibit A**

**Accusation No. 1F-2002-135752**



1 BILL LOCKYER, Attorney General  
of the State of California  
2 T. DOUGLAS MACCARTEE, State Bar. No. 77252  
110 West "A" Street, Suite 1100  
3 San Diego, CA 92101

4 P.O. Box 85266  
San Diego, CA 92186-5266  
5 Telephone: (619) 645-2072  
Facsimile: (619) 645-2061

6  
7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF PSYCHOLOGY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. W265

13 ROBERT E. LEE  
4138 Atascadero Dr.  
San Diego, CA 92107

**A C C U S A T I O N**

14 Psychologist's License No. PSY 4028

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his  
20 official capacity as the Executive Officer of the Psychology Board.

21 2. On or about December 14, 1973, the Board issued a Psychologist's License  
22 Number PSY 4028 to ROBERT E. LEE, Ph.D. (Respondent). The Psychologist's License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on  
24 November 30, 2003, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Psychology (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

1                   4.       Section 2960 of the Code states:

2                   The board may refuse to issue any registration or license, or may issue a  
3 registration or license with terms and conditions, or may suspend or revoke the  
4 registration or license of any registrant or licensee if the applicant, registrant, or licensee  
5 has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not  
6 be limited to:

7                   (a) Conviction of a crime substantially related to the qualifications, functions or  
8 duties of a psychologist or psychological assistant.

9                   (b) Use of any controlled substance as defined in Division 10 (commencing with  
10 Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic  
11 beverage to an extent or in a manner dangerous to himself or herself, any other person, or  
12 the public, or to an extent that this use impairs his or her ability to perform the work of a  
13 psychologist with safety to the public.

14                  (c) Fraudulently or neglectfully misrepresenting the type or status of license or  
15 registration actually held.

16                  (d) Impersonating another person holding a psychology license or allowing  
17 another person to use his or her license or registration.

18                  (e) Using fraud or deception in applying for a license or registration or in passing  
19 the examination provided for in this chapter.

20                  (f) Paying, or offering to pay, accepting, or soliciting any consideration,  
21 compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

22                  (g) Violating Section 17500.

23                  (h) Willful, unauthorized communication of information received in professional  
24 confidence.

25                  (i) Violating any rule of professional conduct promulgated by the board and set  
26 forth in regulations duly adopted under this chapter.

27                  (j) Being grossly negligent in the practice of his or her profession.

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1 (k) Violating any of the provisions of this chapter or regulations duly adopted  
2 thereunder.

3 (l) The aiding or abetting of any person to engage in the unlawful practice of  
4 psychology.

5 (m) The suspension, revocation or imposition of probationary conditions by  
6 another state or country of a license or certificate to practice psychology or as a  
7 psychological assistant issued by that state or country to a person also holding a license or  
8 registration issued under this chapter if the act for which the disciplinary action was taken  
9 constitutes a violation of this section.

10 (n) The commission of any dishonest, corrupt, or fraudulent act.

11 (o) Any act of sexual abuse, or sexual relations with a patient or former patient  
12 within two years following termination of therapy, or sexual misconduct that is  
13 substantially related to the qualifications, functions or duties of a psychologist or  
14 psychological assistant or registered psychologist.

15 (p) Functioning outside of his or her particular field or fields of competence as  
16 established by his or her education, training, and experience.

17 (q) Willful failure to submit, on behalf of an applicant for licensure, verification  
18 of supervised experience to the board.

19 (r) Repeated acts of negligence.

20 5. Section 125.3 of the Code states, in pertinent part, that the Board may  
21 request the administrative law judge to direct a licentiate found to have committed a violation or  
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
23 and enforcement of the case.

#### 24 FIRST CAUSE FOR DISCIPLINE

25 (Gross Negligence, Repeated Acts of Negligence)

26 6. Respondent is subject to disciplinary action under sections 2960 (j) and (r)  
27 in that during the care and treatment of G.S. and M.P. he committed gross negligence and/or  
28 repeated acts of negligence. The circumstances are as follows:

1           7.     G.S. and M.P. had been married for approximately three (3) years when  
2 they saw respondent for marriage counseling on two occasions. On or about January 23, 2001,  
3 G.S. saw respondent individually for one session, and on or about April 18, 2001, attended the  
4 second session along with M.P. Respondent had seen M.P. in the past for marriage counseling  
5 when she had been married to another man.

6           8.     M.P. asked respondent to write a letter about what she had said about G.S.  
7 Because respondent did not take notes during the session, he suggested she write the statement  
8 and he would sign it. M.P. never disclosed that she intended to file the letter with the court as  
9 part of the divorce proceedings with G.S. Respondent signed the letter without ever looking at it,  
10 nor asking its purpose.

11           9.     The divorce court issue a restraining order against G.S., and ordered G.S.  
12 to pay \$5,000 a month spousal support based on the letter's allegations of domestic violence.

13           10.    On or about March 13, 2002, G.S. saw respondent to discuss the letter  
14 M.P. had presented to the divorce court. Respondent's license had expired on or about  
15 December 1, 2001, and stayed on expired status until on or about December 13, 2002.

16           11.    Respondent failed to thoroughly read the letter written by M.P. before  
17 signing it, thereby causing harm to patient G.S.

18           12.    Respondent failed to advise patient G.S. his license to practice psychology  
19 had expired at the March 13, 2002, session.

## 20                           SECOND CAUSE FOR DISCIPLINE

### 21                                   (Breach of Confidentiality)

22           13.    Respondent is subject to disciplinary action under section 2960(h) in that  
23 he violated the confidentiality of patient G.S. when he signed the letter prepared by M.P., which  
24 contained statements attributable to G.S., without thoroughly reading its contents. Paragraphs 6  
25 through 10 are incorporated by reference herein as if set forth in their entirety.

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